

EXHIBIT 5

May 3, 2021 and May 4,
2021 Presentations to N.H.
Court System

Week Three Agenda – Understanding the Communities We Serve

May 3, 2021 – The Communities We Serve

1 Granite Place

Facilitator: Gina

9:00 – 10:00: Access to Justice: What do we mean?

- **Presenter(s):** Margaret Huang, Heather Kulp
- **Location:** In-person

10:00 – 11:00: New Hampshire's Diverse Communities

- **Presenter(s):** Dr. Jessica Carson, UNH Carsey School of Public Policy
- **Location:** WebEx

11:00 – 11:15: Break

11:15 – 12:45: Diversity, Equity, and Inclusion

- **Presenter(s):** James McKim, President, Manchester NAACP
- **Location:** WebEx

12:45 – 1:15 Lunch

1:15 – 2:15: Introduction to the Disability Community and Access to Justice (New Judge Education > Week 3 > Disability Community, Accessibility, and Access to Justice)

- **Presenter(s):** Pamela Phelan, Litigation Director, Disability Rights Center; Déodonné Bhattarai, Communications Specialist, Disability Rights Center
- **Location:** In-person

2:15 – 2:30: Break

2:30 – 3:30: Queer in the Granite State

- **Presenter(s):** Chris Erchull, Staff Attorney, GLBTQ Legal Advocates and Defenders (GLAD)
- **Location:** WebEx

3:30 – 4:15: Veterans Justice Outreach Program

- **Presenter(s):** Diane Levesque, Manchester VA; Daniel Bricker, Manchester VA
- **Location:** In-person

Introduction to Diversity, Equity, & Inclusion



James McKim, Managing Partner
James.McKim@OrganizationalIgnition.com

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Imagine...

Introduction



What is the underlying issue in the photos?

Objectives & Agenda

Objectives

- Understand basic concepts in diversity
- Relate your experiences to the diversity challenge

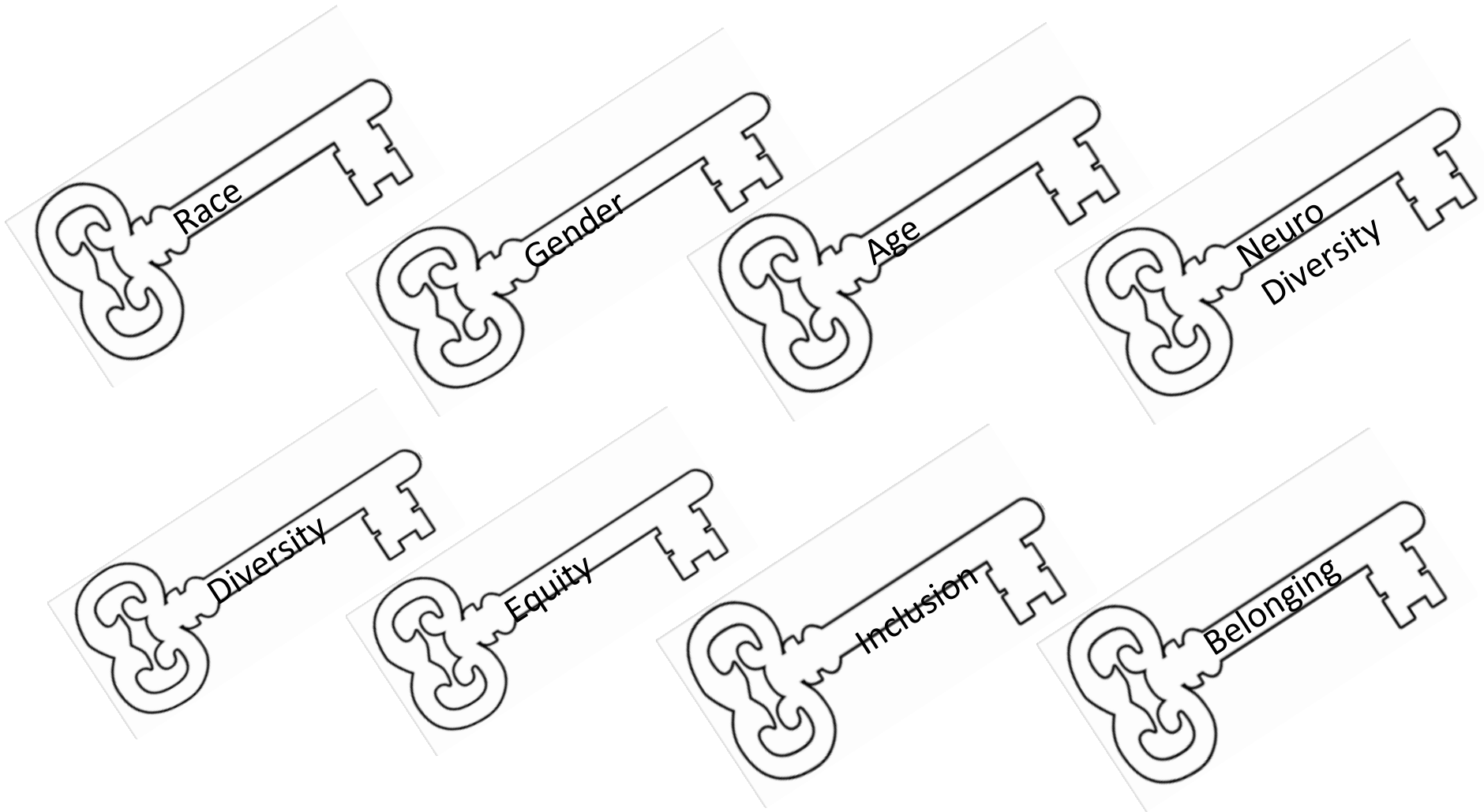
Non-Objective

- Make you an expert on diversity

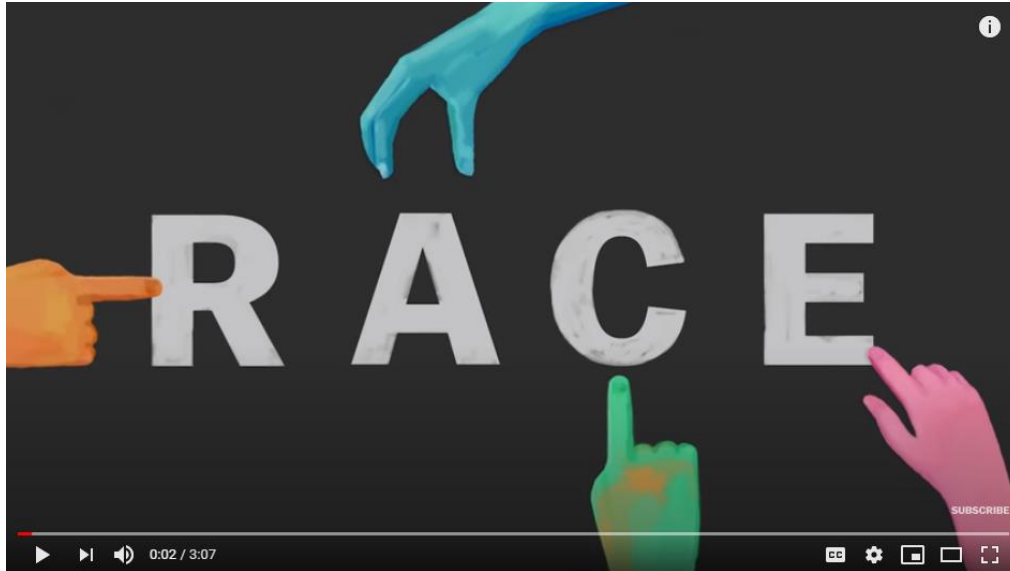
Agenda

- 8 Key Concepts
- Manifestations of Implicit Bias
- Wrap-up

8 Key Concepts



What is Race?



- Q: What word or phrase comes to mind after viewing this video?

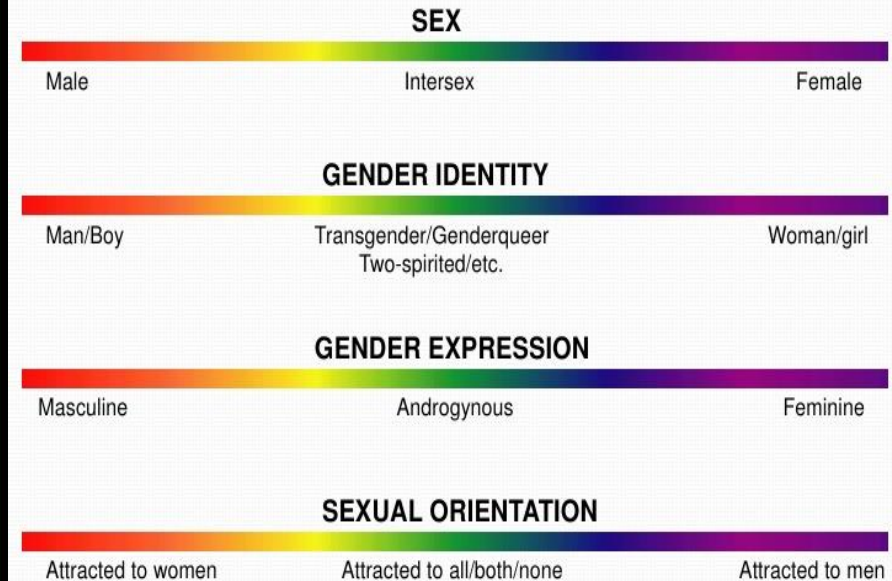
VOX – “The myth of race, debunked in 3 minutes
<https://www.youtube.com/watch?v=VnfKgffCZ7U>

Gender

Stereotypes

Male		Female
Dominant	↔	Submissive
Independent	↔	Dependent
Intelligent	↔	Unintelligent
Rational	↔	Emotional
Assertive	↔	Receptive
Analytical	↔	Intuitive
Strong	↔	Weak
Brave	↔	Timid
Ambitious	↔	Content
Active	↔	Passive
Competitive	↔	Cooperative
Insensitive	↔	Sensitive

Continuum



Age

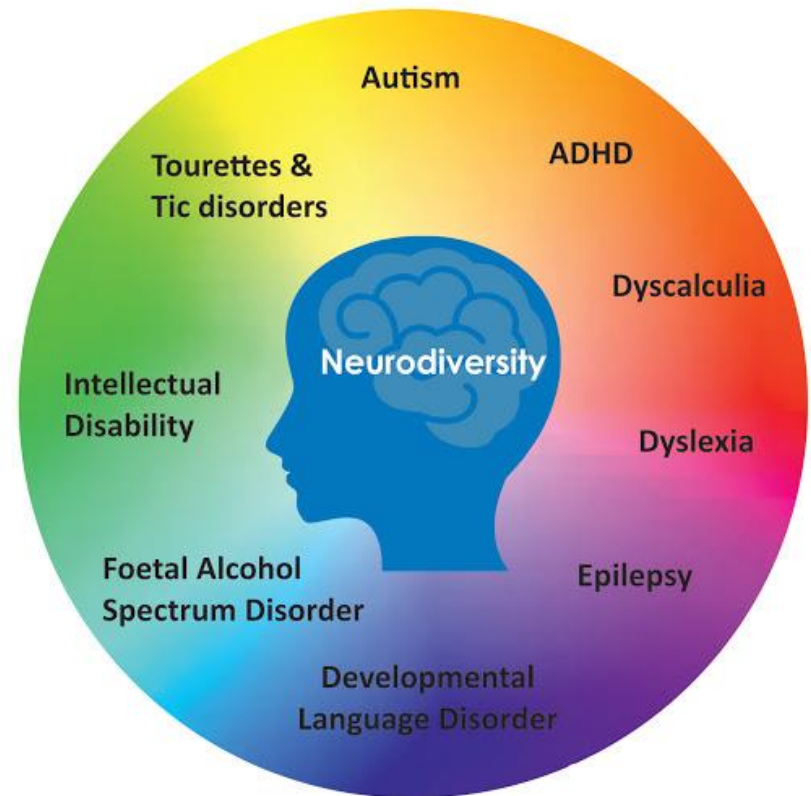
	Traditionalists	Boomers	Gen X	Millennials
Born	1922-1943	1943-1960	1960-1980	1980-2000
Influences	Great Depression; military model; formality; patriotism; atomic bomb	Korean War; Civil, Women and Reproductive Rights and Ecology Movements; Woodstock, Sputnik; TV; dual incomes	moon landing; Watergate; MTV; video games; ATMs; CNN; Web; latchkey; divorce	9/11; Challenger; cell phones; pagers; computers; IM
Values	respect; security; loyalty; obedience	challenge; ambition; achievement; power	leadership; freedom; truth; independence	safety; loyalty; security; hope
Work Preferences and Style	hierarchical command and control; formal environment with dress code and strict conduct rules; one job, one employer	politically savvy; competitive environment; challenge authority for feedback; opportunity seekers; frequent job changers	work-life balance; skeptical of authority; self-reliant; oppose hierarchy; innovative; intentional, frequent job changing	diverse culture; collaborate; meaningful work; fun at work; flexibility
Meeting Career Needs	define and build legacy; annual feedback outlining contributions	define promotional opportunities; annual feedback on progress with documentation	define career path expectations; real time feedback on progress	define career path opportunities; real time feedback on progress and alignment

Neurodiversity

Thinking Styles



Neurodivergent



Diversity



Diversity is counting, and *inclusion* is cultivating... Diversity is being invited to the party, but inclusion is being asked to dance.”

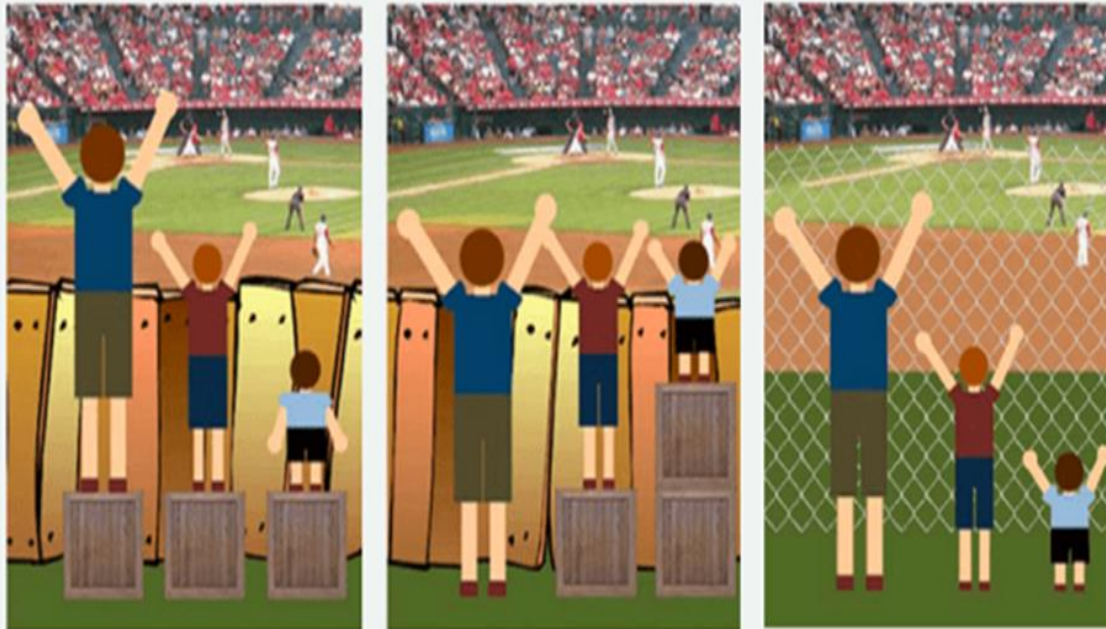
VOL. 37, NO. 4

ABA Bar Leader

“Beyond diversity: The bar leader’s role in fostering inclusion”

Equality Vs. Equity

EQUALITY VERSUS EQUITY



“isms”

Imagine...



**Micro aggressive
Isms**

Using our power to reinforce our discrimination and prejudice in the institutions and groups to which we belong

**Structural/
Systemic
Discrimination**

**White
Privilege**

Discrimination

taking an action on our prejudice

Prejudice

a value judgment based on our feelings associated with the stereotype

Stereotype

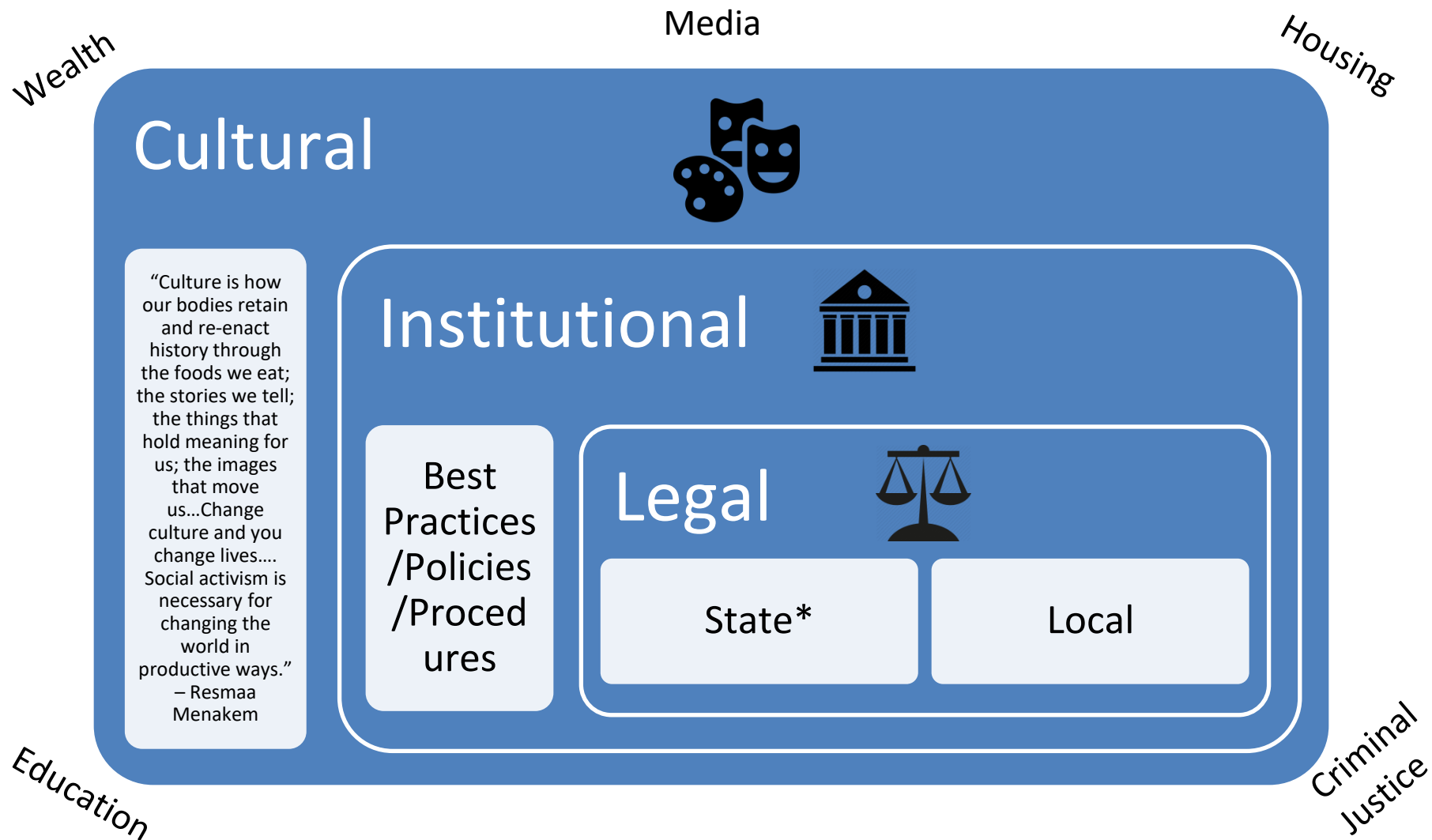
an incomplete or distorted picture in our head

Generalization: The process of formulating general concepts by abstracting common properties of instances



**Unconscious
Implicit Bias**

Structural/Systemic Discrimination



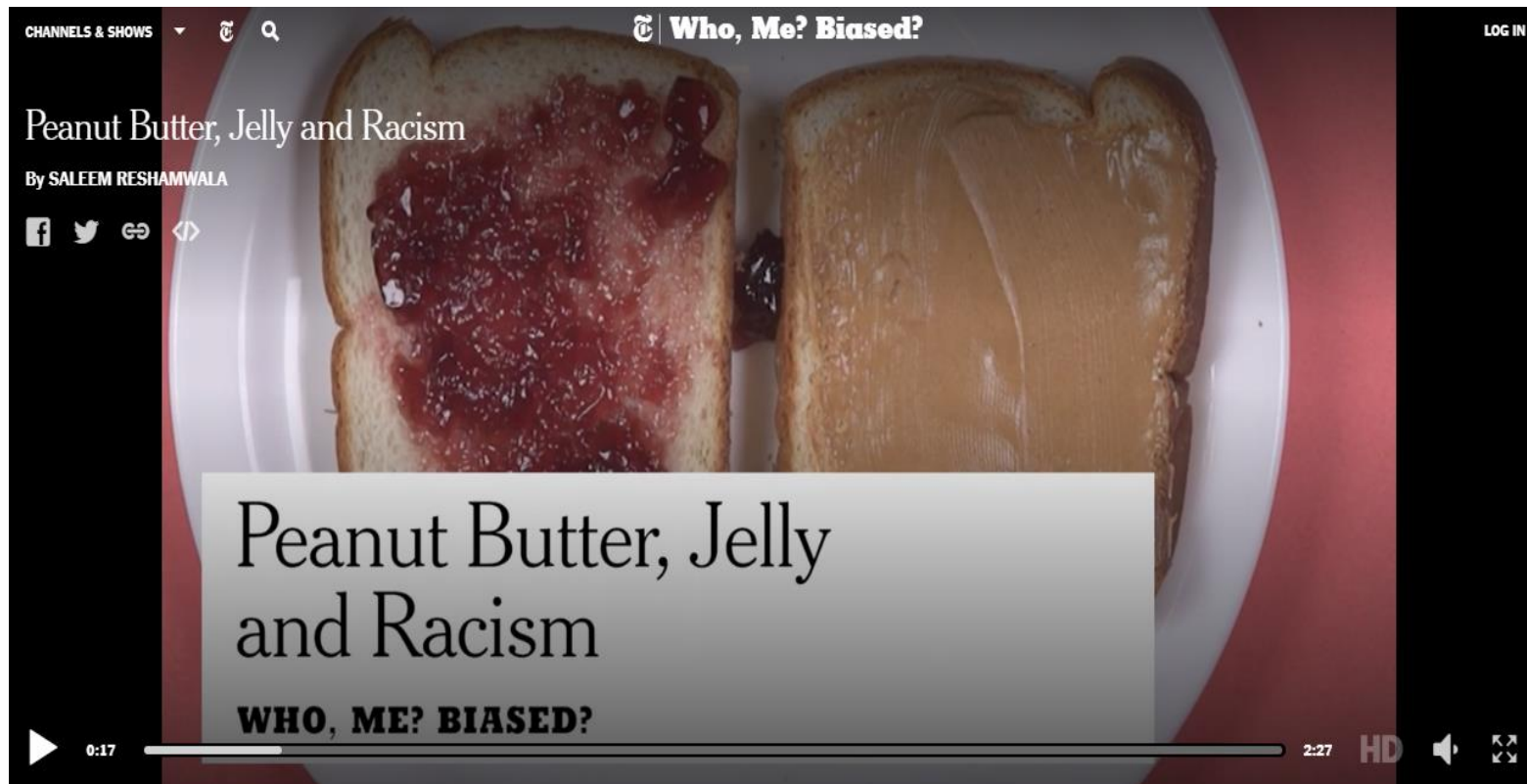
Institutional/Systemic Racism

“The complex interaction of culture, policy, and institutions that holds in place the outcomes we see in our lives.” - Glen Harris, President of the New Race Forward

“The collective failure of an organization to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin. It can be seen or detected in processes, attitudes, and behavior that amounts to discrimination through prejudice, ignorance, thoughtlessness, and racist stereotyping which disadvantage minority ethnic people”. - Sir William Macpherson

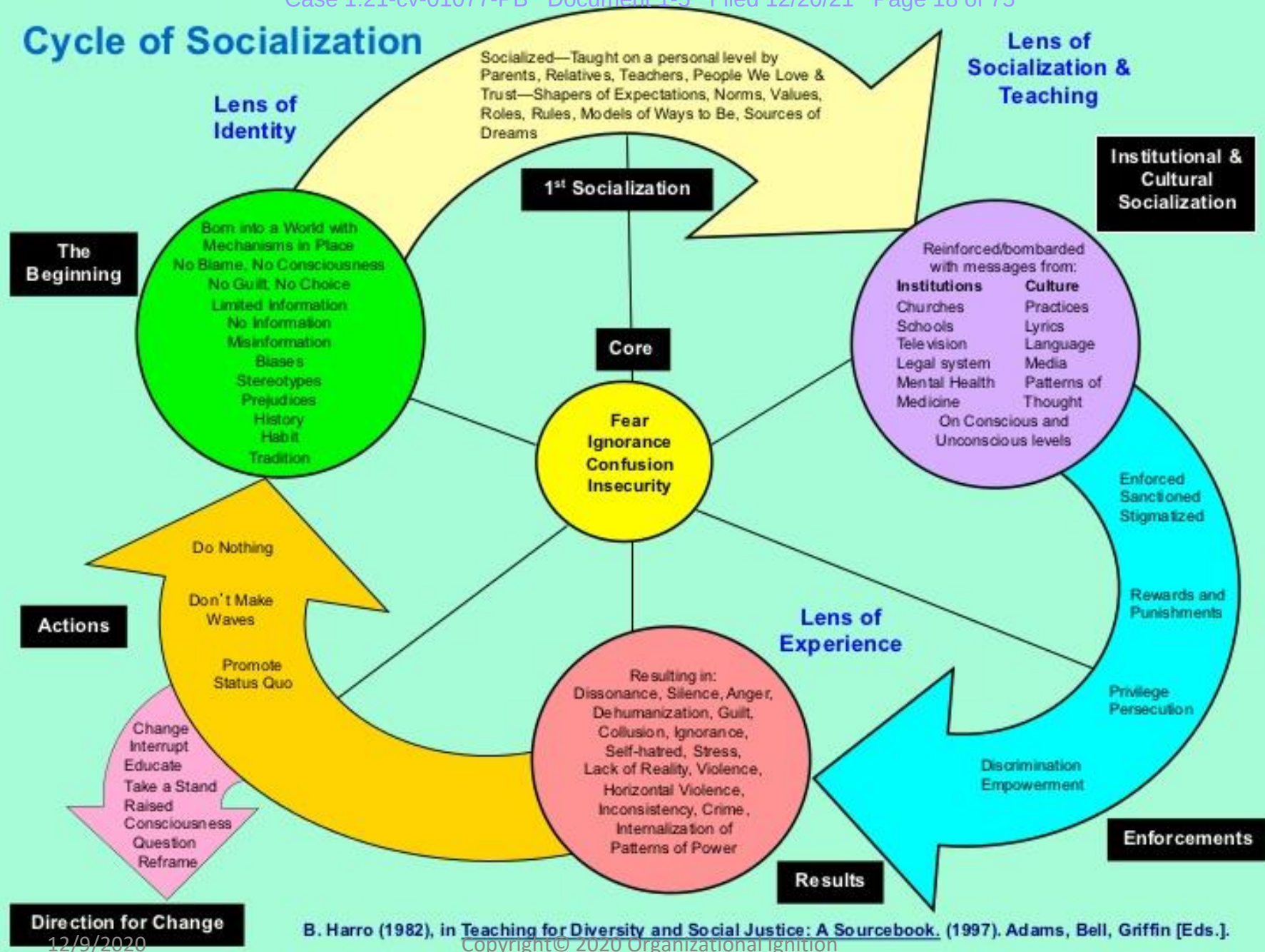
The Cause of Discrimination...

Unconscious Cognitive Implicit Bias



<https://www.nytimes.com/video/us/100000004818663/peanut-butter-jelly-and-racism.html>

Cycle of Socialization





GLBTQ LEGAL ADVOCATES & DEFENDERS

NH CIRCUIT COURT NEW JUDGE EDUCATION

CHRIS ERCHULL
MAY 3, 2021

1-800-455-GLAD GLBTQ Legal Advocates & Defenders (GLAD)

CALL GLAD ANSWERS!!!

M-F, 1:30-4:30 PM



TERMINOLOGY

Sexual orientation refers to a person's emotional, romantic, or sexual attraction to people of the same sex, different sex, or any sex.

Gender identity is an individual's insistent, persistent, and consistent understanding of themselves as male, female, both, or neither. For most people, gender identity aligns with sex assigned at birth. E.g., person assigned male at birth identifies as a man. For many people, gender identity and assigned sex do not align.

Gender expression/presentation is an individual's external expression and/or perception of their gender, manifested through clothing, voice, mannerisms, names/pronouns, or even physical features.

TERMINOLOGY – LEGAL DEFINITIONS

Sexual orientation means having or being perceived as having an orientation for heterosexuality, bisexuality, or homosexuality. This definition is intended to describe the status of persons and does not render lawful any conduct prohibited by the criminal laws of this state or impose any duty on a religious organization. This definition does not confer legislative approval of such status, but is intended to assure basic rights afforded under this chapter.

RSA 354-A:2 (XIV-c)

TERMINOLOGY – LEGAL DEFINITIONS

Gender Identity means a person's gender-related identity, appearance, or behavior, whether or not that gender-related identity, appearance, or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth. Gender-related identity may be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity, or any other evidence that the gender-related identity is sincerely held as part of a person's core identity provided, however, that gender-related identity shall not be asserted for any improper purpose.

RSA 354-A:2 (XIV-e)

TERMINOLOGY – MEDICAL DEFINITIONS

Gender dysphoria is a medical condition recognized in the DSM-5.

- Clinically significant distress caused by incongruence between a person's gender identity and assigned sex
- A serious but highly treatable medical condition
- Untreated or under-treated gender dysphoria can be disabling for some people

TERMINOLOGY – MEDICAL DEFINITIONS

Gender transition is the ONLY widely accepted treatment for gender dysphoria, but the course of treatment is highly individualized.

- Social Transition
 - *Legal Transition*
- Hormone Therapy
- Surgical Treatment

KEY STATUTES

- RSA 354-A (1965)
 - *Created the NH Commission on Human Rights*
 - *Bars discrimination in employment, housing, public accommodations*
 - *Sexual Orientation-1996 Gender Identity-2018*
- RSA 193:38-39 (2019)
 - *Prohibits discrimination in public schools*
- RSA 5-C:87 (2005)
 - *Corrections to birth records*

CODE OF JUDICIAL CONDUCT—CANON 3

- “A judge shall perform the duties of judicial office impartially and diligently.”
- Sexual Orientation & Gender Identity are listed with the protected classifications in parts (5) & (6)
- Applies to:
 - *Judges*
 - *Staff, court officials under the judge’s direction*
 - *Lawyers before the judge*

PRACTICAL TIPS

- Respect preferred names and pronouns
 - *Avoid assumptions*
 - *Ask when uncertain*
- Avoid gendered terms and honorifics
 - *Use Attorney Jones instead of Mr./Ms. Jones*
 - *Use “the defendant” or “your client” instead of Mr./Ms. ____.*
- Generously allow motions to amend captions, etc., whenever possible

COURTROOM SCENARIOS

- Boston Straight Pride Parade: Aug. 31, 2019
 - *Counter-protesters significantly outnumbered the Straight Pride demonstrators*
 - *36 arrests, predominantly LGBTQ people*
- Boston Municipal Court Judge denies ADA's request to drop charges against 18 defendants
- Judge intentionally misgenders one transgender defendant and forces her to wait house under guise of clarifying her "alias"

COURTROOM SCENARIOS

- In Ohio, parents of a transgender teenage boy petition for name change
 - *Parents present evidence that the boy has been treated for over a year for gender dysphoria*
- Judge denies petition, claiming it is premature, against the advice of medical providers and the wishes of the young person's parents

COURTROOM SCENARIOS

- In Texas, parents disagree about young child's gender transition in the midst of custody dispute
- Jury verdict awarded legal custody to the mother
- Judge reverses jury verdict
 - *Judge made comment about case on Facebook*
 - *Judge removed from case*
 - *Jury verdict reinstated*
- Appeals still pending

COURTROOM SCENARIOS—HYPO

- Jury selection in a civil trial
- Plaintiff's attorney exercises peremptory strike
 - *Defense counsel objects, claims improperly struck based on sexual orientation*
- Record demonstrates no basis for strike other than sexual orientation

How do you proceed with respect to the defense counsel's Batson objection?

GLAD Answers: 1-800-455-GLAD

Questions & Contact

CHRIS ERCHULL
CERCHULL@GLAD.ORG





The Disability Community and Access to Justice

Pamela E. Phelan, Litigation Director

Déodonné Bhattarai, Communications Specialist

Protection and Advocacy System for New Hampshire

Presentation outline

- About DRC-NH
- What is the 'disability community'?
- What is a 'disability'?
- Disability data
- Disability etiquette
- Discussion/Q&A

About DRC-NH

- New Hampshire's designated *Protection and Advocacy* agency.
- Authorized by federal statute “to pursue legal, administrative and other appropriate remedies” on behalf of individuals with disabilities.
- Statewide organization independent from state government or service providers.

The disability rights movement's struggle for access [has shown] that the exclusion of persons with disabilities from the public sphere was not only the outcome of stigma, but also the product of an exclusionary environment that includes physical and structural barriers. In the absence of access, disabled people cannot benefit from the services and opportunities that are available to the public at large and are unable to exercise their rights as citizens of equal value and status.

Sagit Mor, *With Access and Justice for All*, Cardozo Law Review, Vol. 39, Issue 2 (2018).

Ensuring equal access necessarily must encompass considerations of legal capacity, physical access to courts and other legal tribunals, access to legal proceedings and representation, communication, information, language barriers, socioeconomic barriers, structural biases within the legal process and more. *Id.*

What is the 'disability community'?

- Only minority group anyone can join at anytime
- Plaintiff, defendant, witness, victim, lawyer, CASA volunteer, guardian, friend, family, court employee, or visitor



What is a 'disability' - Legal

The ADA defines a person with a disability as a person who has a physical or mental impairment that substantially limits one or more major life activity. This includes people who have a record of such an impairment, even if they do not currently have a disability. It also includes individuals who do not have a disability but are regarded as having a disability. The ADA also makes it unlawful to discriminate against a person based on that person's association with a person with a disability.













<https://adata.org/faq/what-definition-disability-under-ada>

What is a 'disability' – Lived

- Disability is a natural part of the human experience.
- Types of disabilities are as diverse as the individuals who experience them. Among other things, a disability may affect a person's mental health, vision, hearing, movement, ability to learn or communicate. Disabilities include substance abuse disorder.
- Disabilities affect people in different ways. Two people with the same diagnosis may experience it very differently.
- Disabilities are both visible (e.g., a wheelchair) and invisible (e.g., an intellectual disability). One individual may have multiple disabilities (27%).

Data – Disability by the numbers

- About 1 out of every 8 NH residents (**12.6%**) report having a disability
- Number of children and adults engaging in the state's public mental health system is increasing

 UNITED STATES	 NEW HAMPSHIRE
POPULATION	POPULATION
 39,792,082	 165,149
 316,027,641	 1,314,875
% OF TOTAL	% OF TOTAL
 12.6%	 12.6%
 87.4%	 87.4%
 WITH DISABILITY	 WITHOUT DISABILITY

Data – Disability by the numbers

- Less likely to attend college
 - 19.2 percentage points
- Less likely to be employed
 - 40.2 percentage points
- Higher rates of poverty (19.6% v. 5.8%)
- More likely to have public insurance (50.1% v. 12.8%)



Disability etiquette

- Everyone who works in or comes to court
- Dignity + Respect
- They're the experts about disabilities + needs
- People first language



Image credit: Disabled and Here

Etiquette: Person-first language

Preferred	Avoid
an individual who has a disability	disabled or special needs
an individual with a physical disability	crippled, handicapped; deformed; defective; lame
an individual who uses a wheelchair	wheelchair bound or confined to a wheelchair
an individual who is blind or has low vision	the blind
an individual who is deaf or hard of hearing	the deaf; deaf and dumb; mute; hearing impaired
an individual with an intellectual or a developmental disability	slow; retarded; dim-witted
an individual with a psychiatric disability or a mental health diagnosis	crazy; maniac; lunatic; demented; schizo; psycho; feeble-minded

*Person-first language should be used unless an individual prefers identity-first language.
Best guideline when referring to people with disabilities is to ASK.*

Etiquette (continued)

- Ask before acting
- Assume competence and independence
- Identify auxiliary aids/accommodations
- May be hesitant to acknowledge a disability or need



Image credit: Lawrence Roffee

Etiquette (continued)

- Be mindful of invisible disabilities
- Secondary trauma
- Implicit biases
- Appreciate barriers to services that may impact matters before the court



Image credit: autismspeaks.org



Pamela E. Phelan, Litigation Director

pamelap@drcnh.org



Déodonné Bhattarai, Communications Specialist

deodonneb@drcnh.org

Protection and Advocacy System for New Hampshire



Data-The employment gap detail

In NH, the employment gap
is 40.2 percentage points
(national is 40.6 pts)

 UNITED STATES	 NEW HAMPSHIRE
POPULATION** ♿ 20,276,199 👤 175,862,600	POPULATION** ♿ 83,940 👤 756,678
% EMPLOYED ♿ 35.5% 👤 76.1%	% EMPLOYED ♿ 42.0% 👤 82.2%
EMPLOYMENT GAP 40.6 POINTS	EMPLOYMENT GAP 40.2 POINTS
♿ WITH DISABILITY	👤 WITHOUT DISABILITY
** Ages 18-64	

Data-The education gap detail

In NH, the education gap is
19.2 percentage points
(national is 19.8 pts)

 UNITED STATES	 NEW HAMPSHIRE
POPULATION** ♿ 34,915,916 👤 177,302,353	POPULATION** ♿ 144,181 👤 780,301
% SOME COLLEGE ♿ 43.8% 👤 63.6%	% SOME COLLEGE ♿ 49.1% 👤 68.3%
EDUCATION GAP 19.8 POINTS	EDUCATION GAP 19.2 POINTS
♿ WITH DISABILITY	👤 WITHOUT DISABILITY
**Ages 25+	

May 4, 2021 – Confronting the Twin Challenges of Poverty and Racism

WebEx

Facilitator: Ryan Guphill

9:00 – 10:00: Understanding Immigrant and Refugee Experiences

- **Presenter(s):** Dawn Higgins, NHTI
- **Location:** WebEx

10:00 – 11:00: Race and Racial Justice in New Hampshire Presentation (New Judge Education > Week 3 > Implicit Bias, Racism, and Racial Justice)

- **Presenter(s):** James McKim, President of Manchester NAACP
- **Location:** WebEx

11:00 – 11:15: Break

11:15 – 12:15: Race and Racial Justice in New Hampshire Panel

- **Presenter(s):** Joseph Lascaze, ACLU Smart Justice Organizer; Donna Brown, Manchester NAACP; Professor John DeJoie, UNH
- **Location:** WebEx

12:15 – 1:15 Lunch and Conversation on Bias and Judicial Decision-Making

- **Presenter(s):** Judge James Leary
- **Location:** WebEx

1:15 – 2:45: The Real Impact of Poverty

- **Presenter(s):** Professor Stephen Pimpare, UNH
- **Location:** WebEx

2:45 – 3:00: Break

3:00 – 4:00: Panel: Poverty, Homelessness, and New Hampshire Families

- **Presenter(s):** Stephanie Savard, Chief External Relations Officer, Families in Transition; Allie Reyes
- **Location:** WebEx

Race in NH



James McKim, Managing Partner
James.McKim@OrganizationalIgnition.com

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Agenda



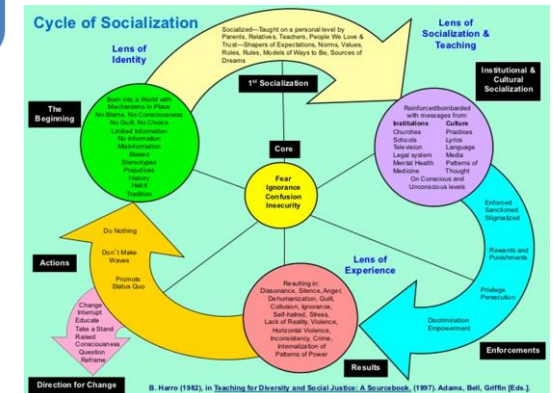
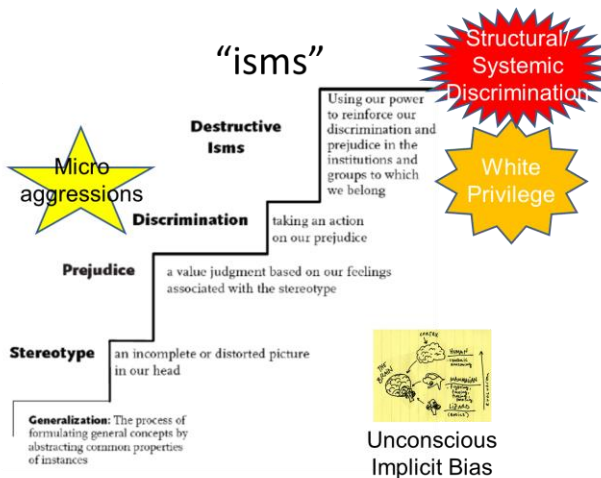
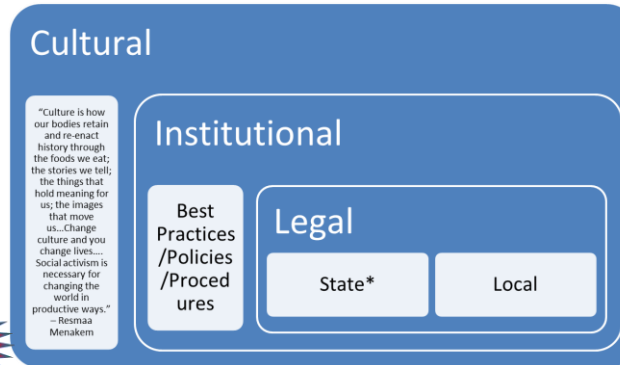
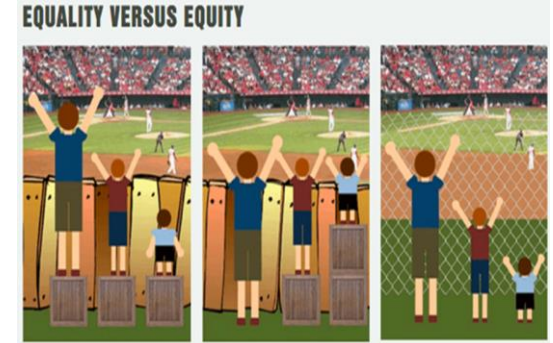
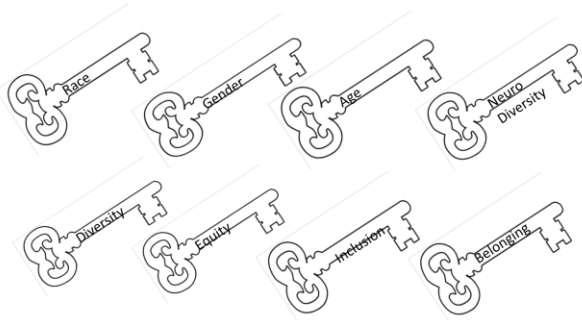
Session Objective

- Understand racism in NH

Agenda

- Recap
- Deeper Dive on Implicit Bias
- Microaggressions & White Privilege
- Racism in NH
- Putting It All Together

Recap



Big Picture View of Racism



Safehouse Progressive Alliance for Nonviolence (2005)
"Building a Multi-Ethnic, Inclusive & Antiracist Organization-Tools for Liberation Packet for Anti-Racist Activists, Allies, & Critical Thinkers")

Types of Implicit Biases

Decision-making, Belief, and Behavioral/Confirmational (125+)



- Automation bias
- Bias blind spot
- Dunning–Kruger effect
- **Stereotyping**
- **Zero-sum bias**

Social /Attributional (220+)



- **Group attribution error**
- **In-group/Affinity**
- **Puritanical bias**

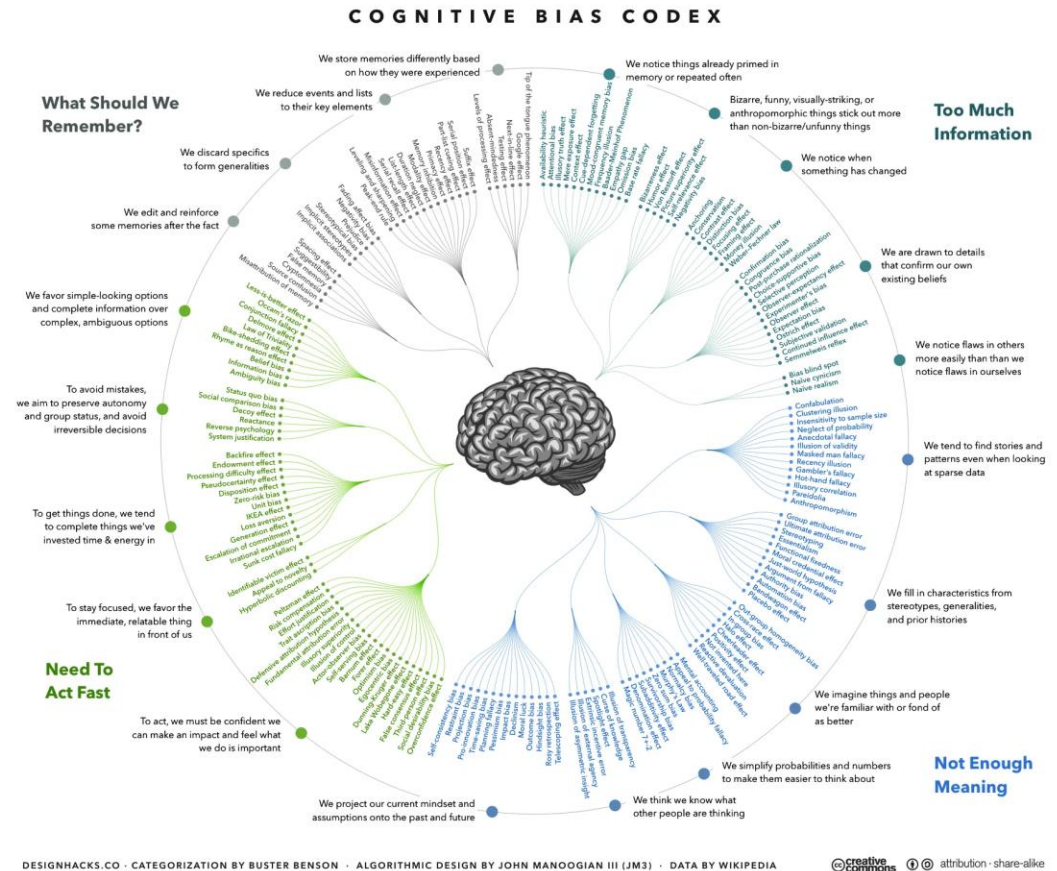
Memory Errors (40+)



- Consistency bias
- **Cross-race effect**
- **Stereotypical bias**

Bias Impact Context

- Information Overload
- Feelings Over Facts
- Need for Speed
- What to remember



The Cognitive Bias Codex: A Visual Of 180+ Cognitive Biases

Micro-aggression Summary

Alien in own
land

Ascription of
Intelligence

Color
Blindness

Denial of
racism

Myth of
meritocracy

Pathologizing
cultural
values/styles

Second class
citizen

Environmental

Assumption of
criminal status

9 Flavors – 2 forms

Verbal Micro-aggression Exercise

**"Where are you from?
You speak good English!"**

A person asking
an Asian
American to
teach them
words in their
native language.

You are not
American.
You are a
foreigner.

"You are a credit to
your race."
"You are so
articulate."

Assuming
everyone can
read English

People of color are
generally not as
intelligent as Whites.
All Asians are intelligent
and good in Math /
Sciences.

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"When I look at you, I
don't see color."
"America is a melting pot."
"There is only one race,
the human race."

Everyone is the
same.

Racial /ethnic
experiences are don't
matter. There is no
value in them.

Behavioral Micro-aggression Exercise

PoC mistaken for a service worker.
Taxi cab passes a PoC – picks up a white person
PoC ignored at a store counter

College/University w/buildings with all white heterosexual upper class male names.
Media without PoC.
Overcrowding of public schools in communities of color.

White person clutching purse/wallet as PoC approaches/passes.
Store owner follows PoC around the store

PoC are servants to whites.
PoC are likely to cause trouble.
You don't belong. You are a lesser being.

You don't belong/won't succeed here.
You are an outsider./You don't exist.
PoC don't value education.
PoC are deviant and belong together in schools.

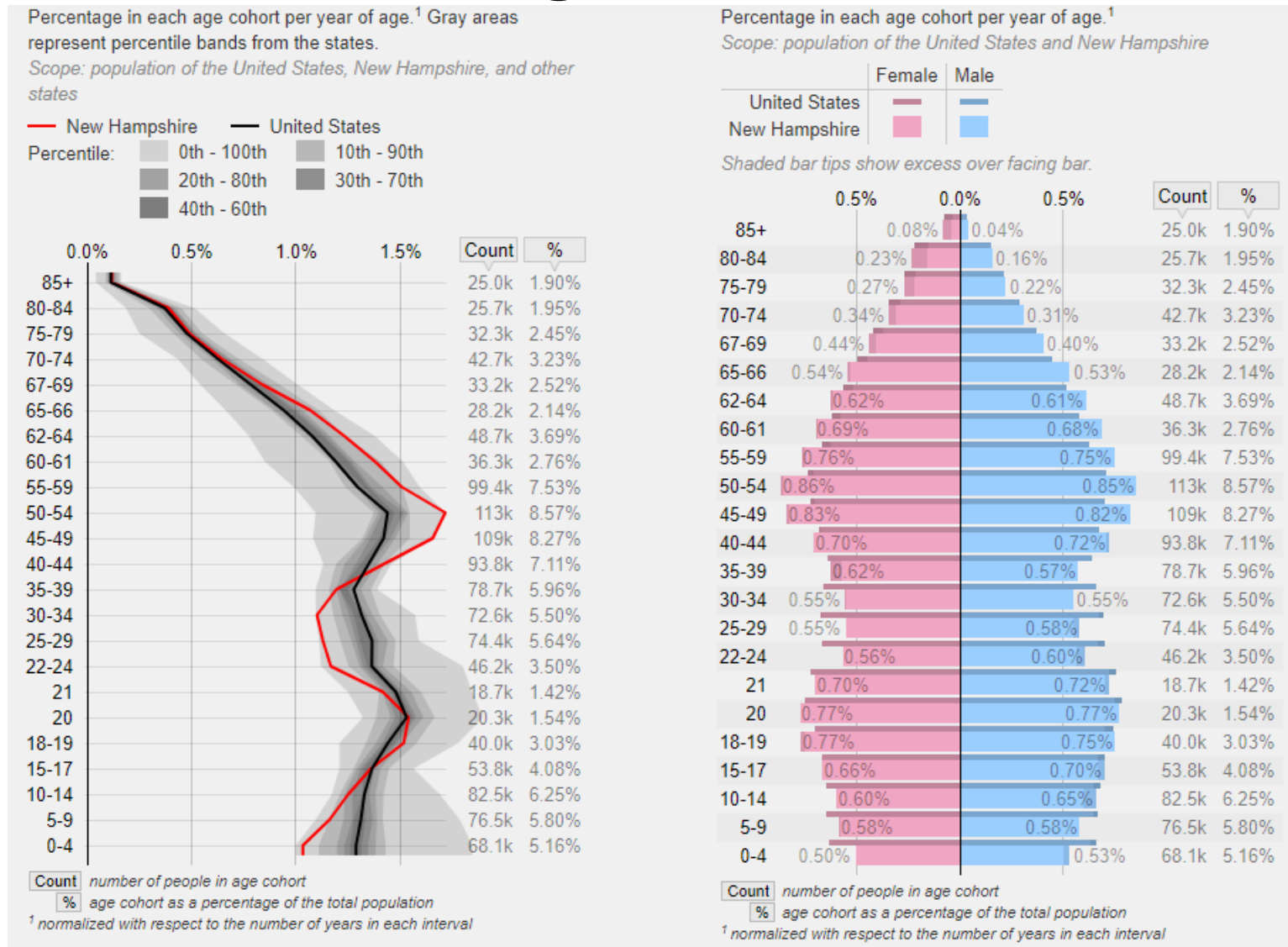
PoC are dangerous.
PoC are likely to cause trouble.

What is White Privilege?



https://www.youtube.com/watch?v=ysj_8fqNcY

Current NH Demographics By Age/Gender



Current NH Demographics By

Race and Ethnicity

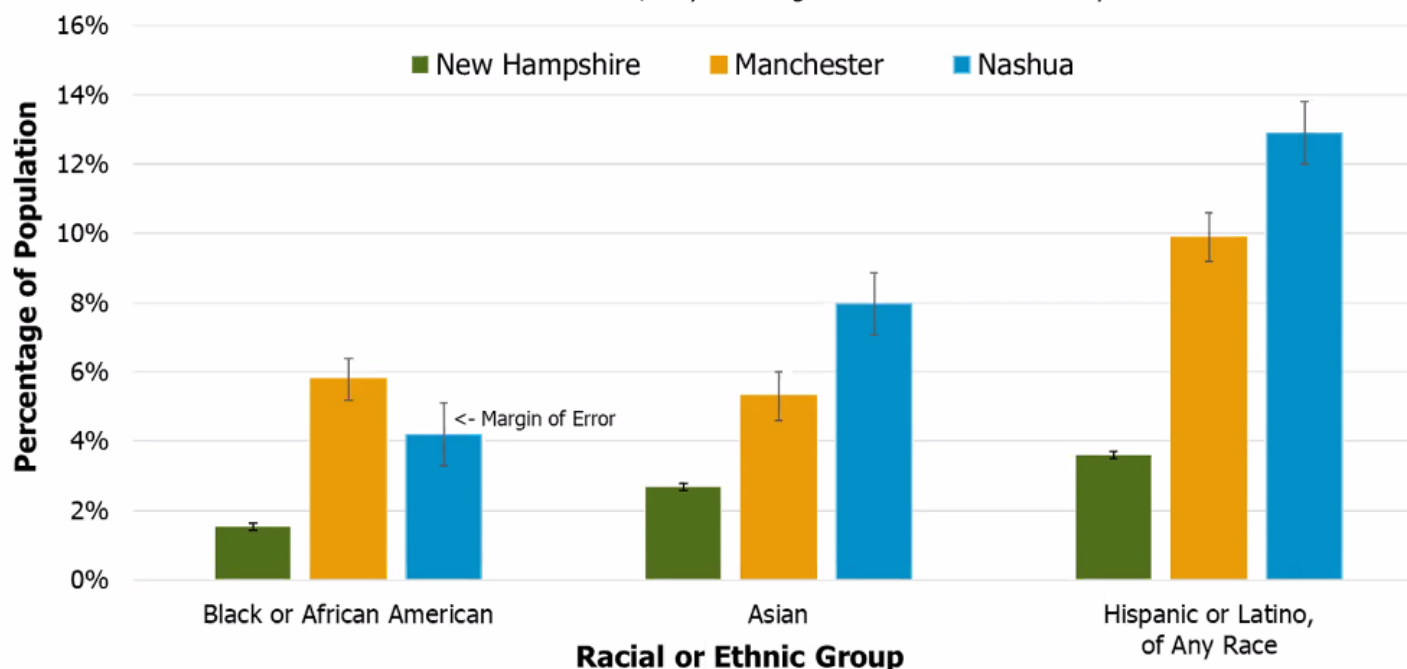
#1

Percentage of the total population.

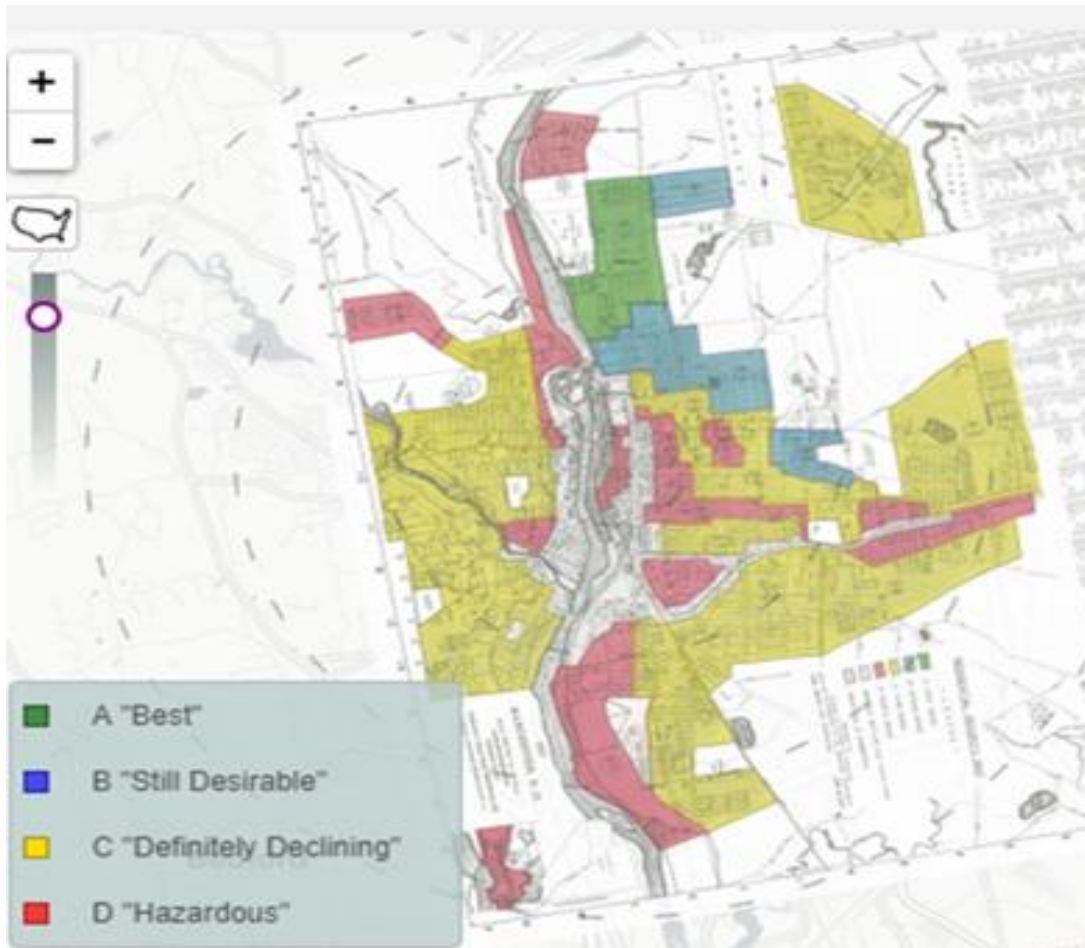
Scope: population of the United States and New Hampshire

Percentage of Population by Racial or Ethnic Group

Estimates for 2014-2018, Hispanic Origin Included in Racial Groups



NH Examples of Implicit Bias – Part I



NH Examples of Implicit Bias – Part II

Cases and deaths by race/ethnicity

Race/ethnicity	Percentage of population	Percentage of cases	Percentage of deaths
Black or African American alone	1%	6% 	2%
Hispanic or Latino *	4%	13% 	3%
Asian alone	3%	3%	<1%
Native Hawaiian and Pacific Islander alone	<1%	0% 	0% 
American Indian or Alaska Native alone	<1%	0% 	0% 
Two or more races	2%	0% 	0% 
White alone	90%	74%	94%
Some other race alone	<1%	4% 	<1% 



- Discrimination in every day life & the emotional toll it takes
- Special fear of life when pulled over by police – regardless of agency

Criminal Justice Process

Overview of the criminal process



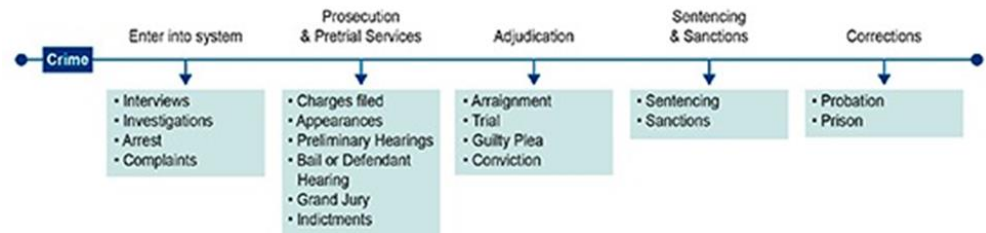
<https://www.fbi.gov/resources/victim-services/a-brief-description-of-the-federal-criminal-justice-process>

Seeing Through an Equity Lens (Breakout)

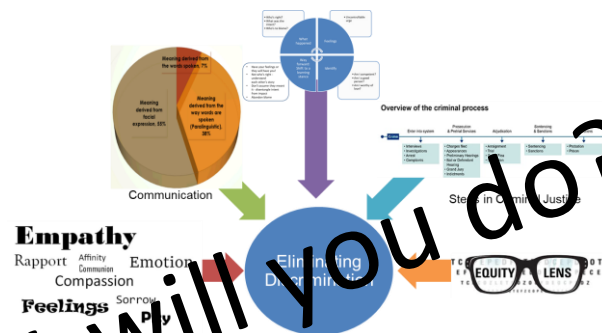
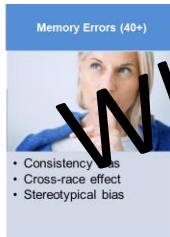
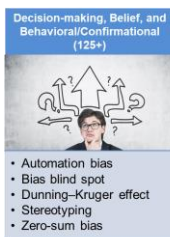
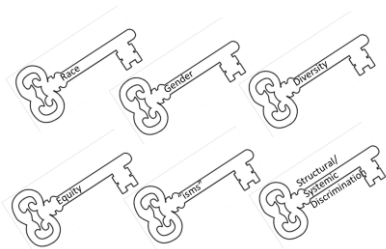
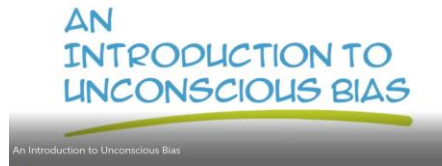


- What decision is being made?
- Who is at the table?
- How is the decision being made?
- What assumptions are at the foundation of the issue?
- What is likely impact?
- What is your decision?

Overview of the criminal process



Wrap-up

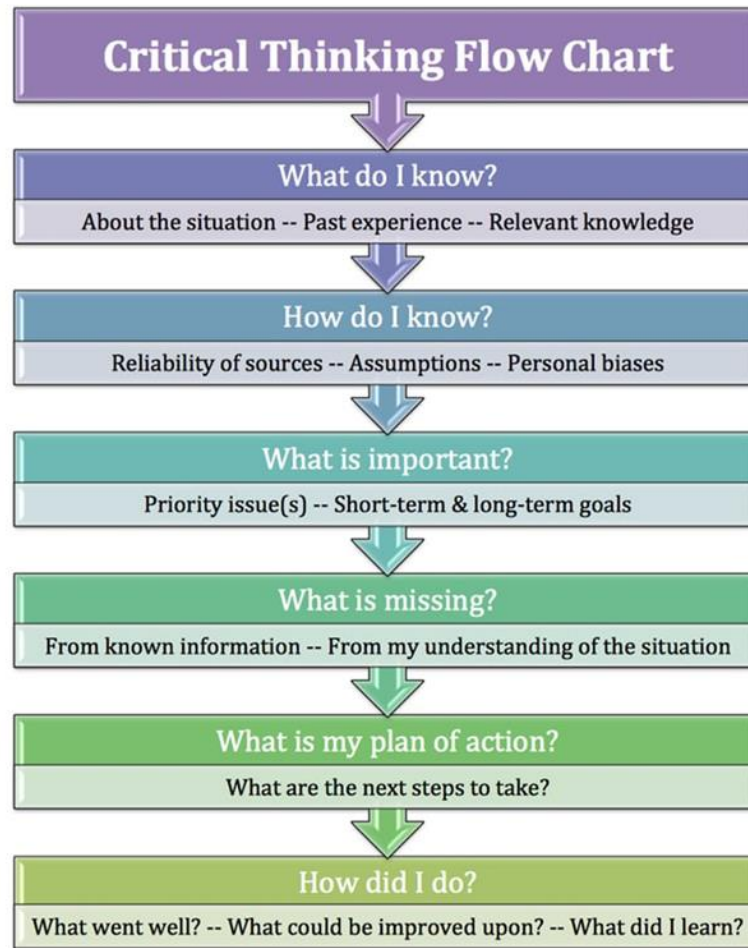


- Counterstereotype Training**
 - Dasgupta and Asagari (2004)
- Negation**
 - Kawakami, Dovidio, Moll, Hermsen, and Russin (2000)
- Perspective-taking**
 - Shih, M. J., Wang, E., Bucher, A. T., & Stotzer, R. (2009).
- Meditation/Lovingkindness meditation (LKM)**
 - Stell, A. J., & Farsides, T. (2016).
- Implicit bias workshops**
 - like the one we offer

Eliminating Bias & Discrimination

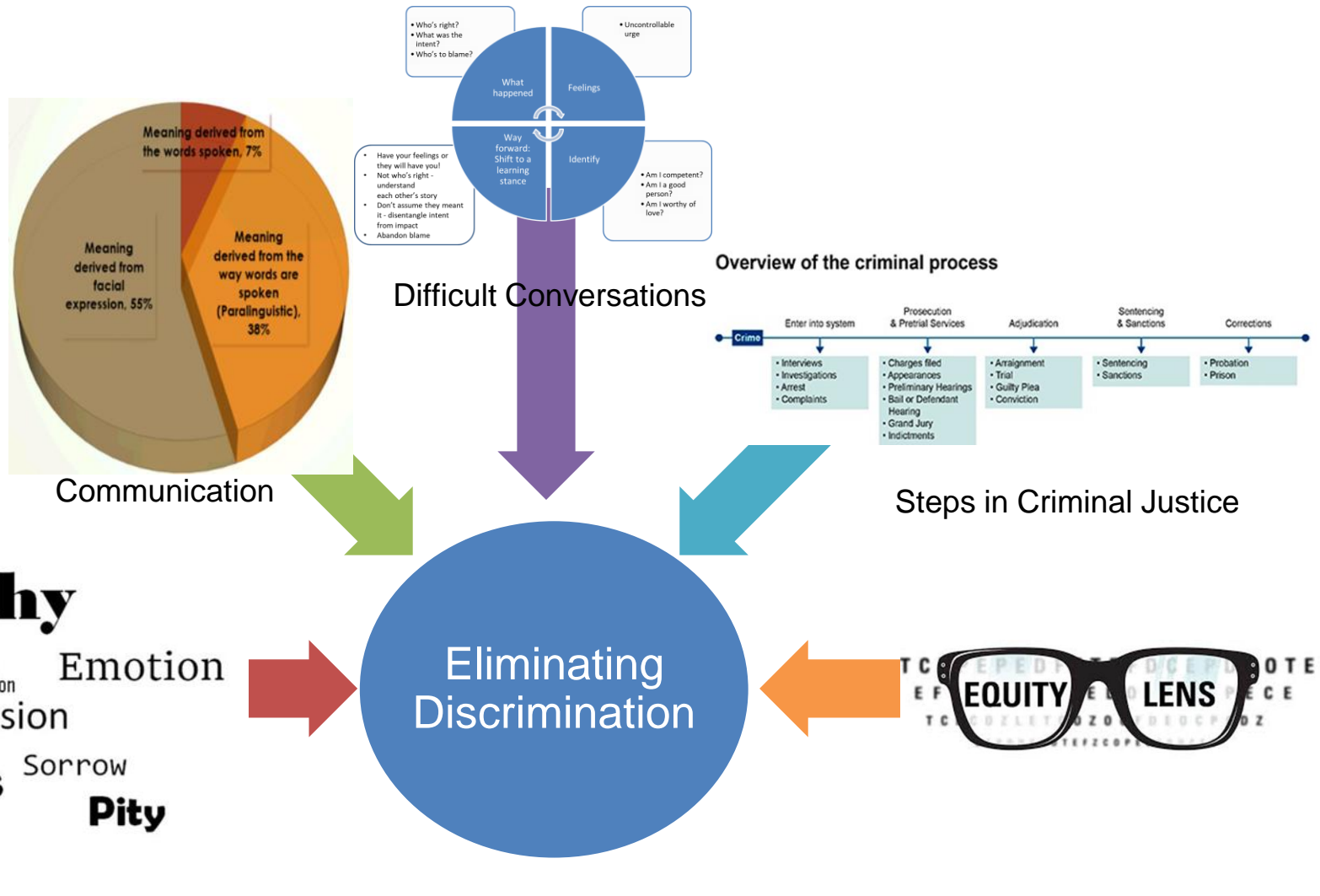


How We Think

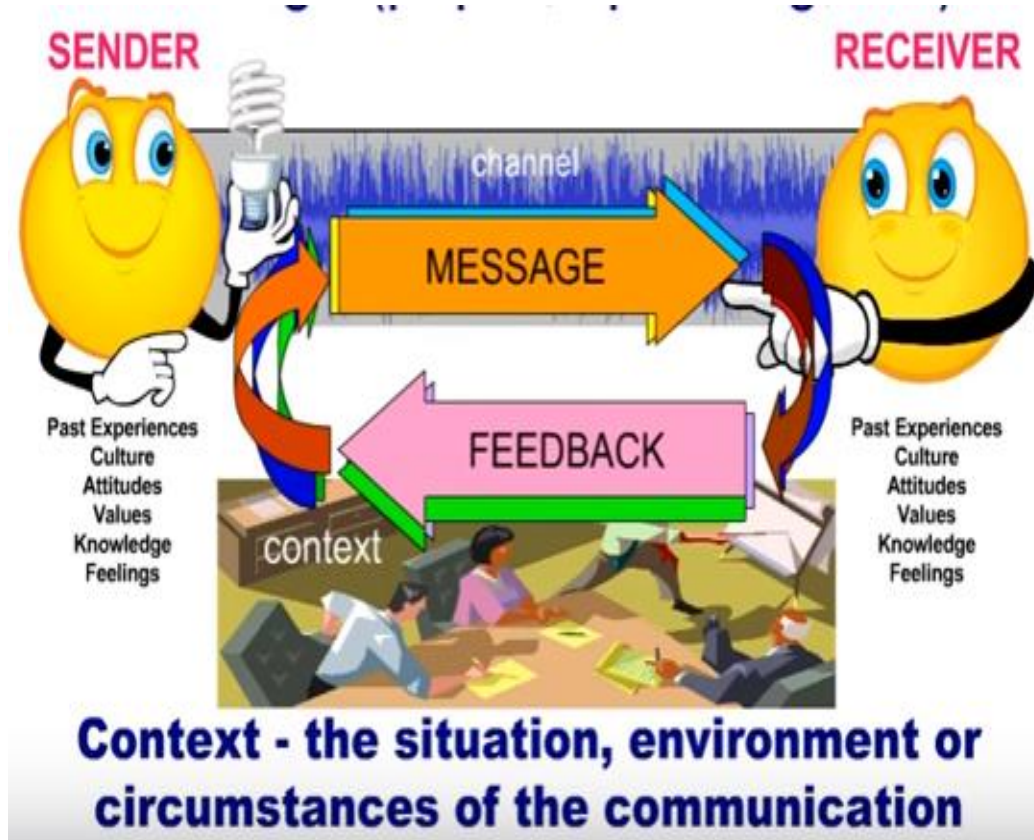


Wasabi Learning Flow Charts <https://www.wabisablearning.com/blog/5-useful-critical-thinking-flowcharts>

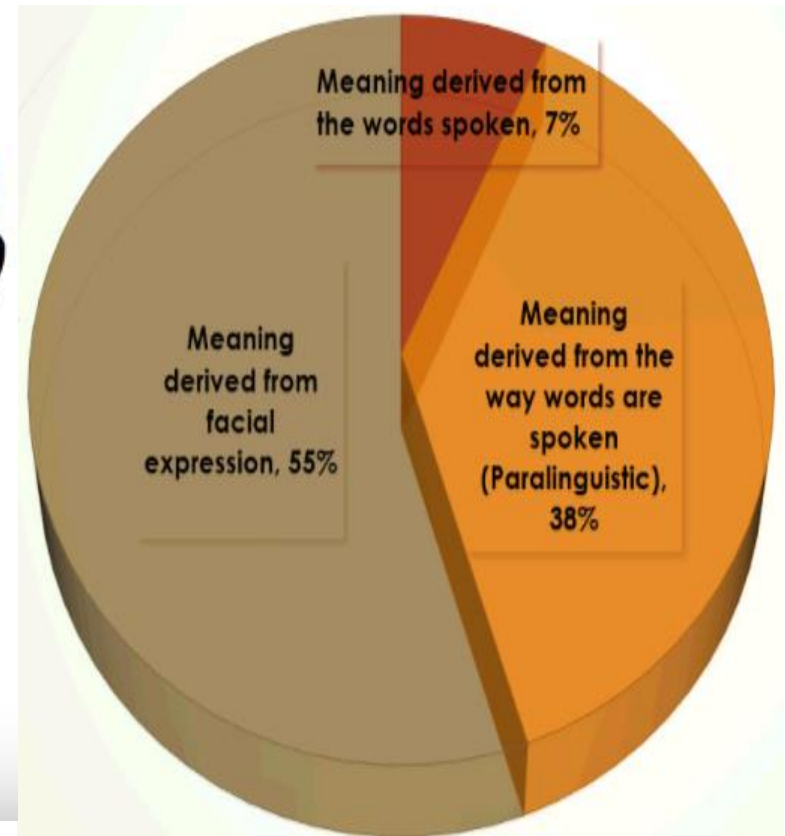
How We Behave



Understanding Communication Basics

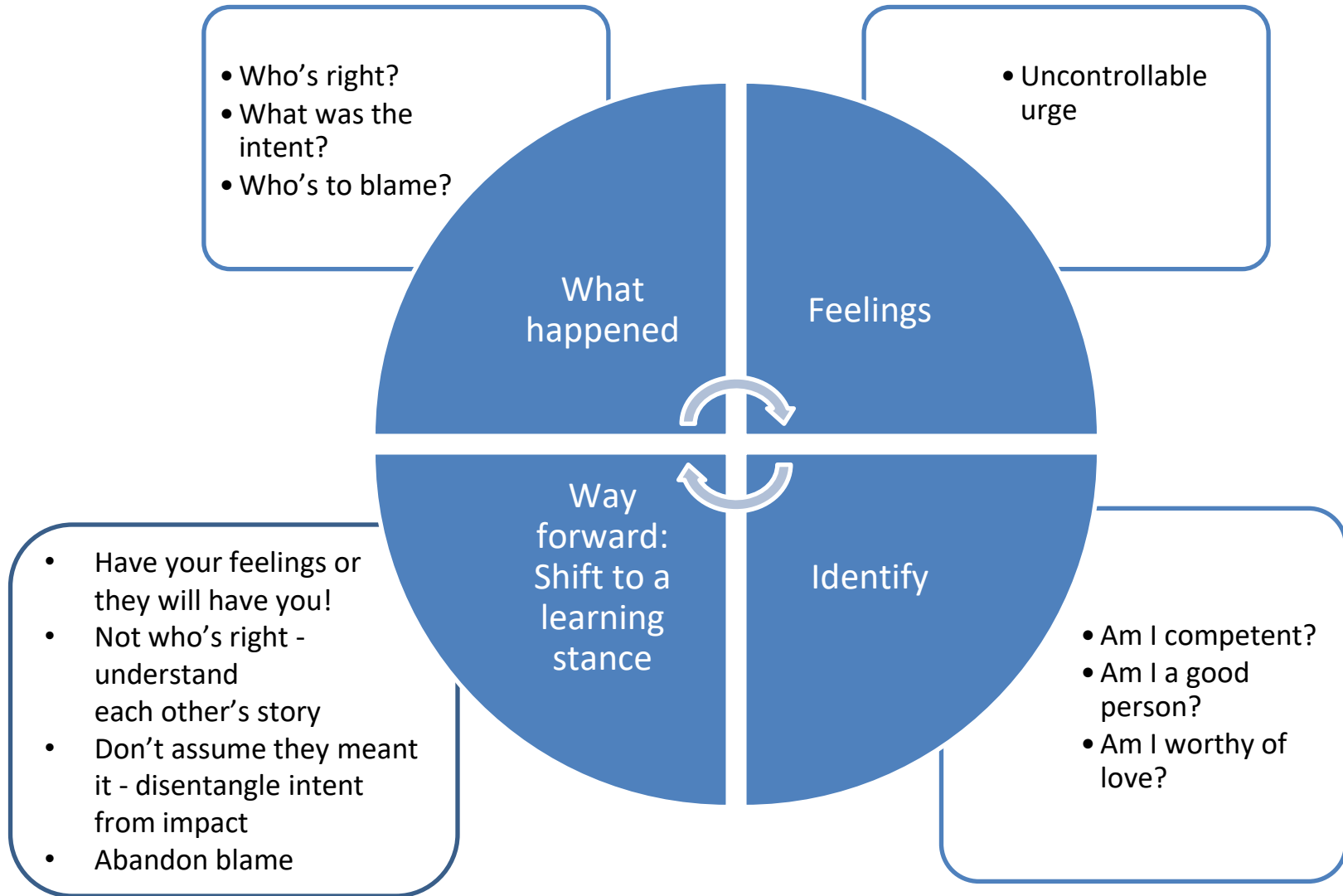


Shannon and Weaver Model



Dr. Albert Mehrabian's 7-38-55 Rule of Personal Communication

Rules for Difficult Conversations



Difficult Conversations by Douglas Stone, Bruce Patton, & Sheila Heen

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Pulling It All Together



Justice mindful
of an equity lens

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